

## REMARKS

Claims 1-2 and 4-19 are pending in this application. Claims 5-7, and 11-19 have been withdrawn from reconsideration. Claims 1 and 9 have been amended. Claim 8 has been cancelled.

In the Office Action, claims 1-2, 4 and 8-10 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,515,494 (Low) in view of U.S. Patent No. 6,061,322 (Jain) and further in view of U.S. Publication No. 2002/0135392 (Chang). This rejection is respectfully traversed. Applicants hereby request reconsideration and allowance of the claims in view of the following arguments.

Regarding the rejection of independent claim 1, this claim has been amended to recite that the claimed failure analyzer further comprises a support member for supporting the sample independently of the analysis plate; and a first driver for changing the position of the protrusion (in the recess of the second main surface of the analysis plate) relative to the sample, in a direction parallel to the first main surface of the analysis plate, by moving the analysis plate in parallel to the first main surface. This amendment is fully supported, for example, in original claim 8, which has consequently been cancelled, and at page 13, lines 6-10 of the present application. Claim 9 has been consequently amended to depend from claim 1 instead of claim 8. No new matter has been added.

The feature of amended claim 1, of a first driver for changing the position of the protrusion relative to the sample in a direction parallel to the first main surface by moving the analysis plate in parallel to the first main surface, facilitates the movement of an analysis range without changing the relative position of the optical system and the protrusion perpendicularly to the first main surface. Thus, it is possible to easily align the optical system when moving the

analysis range, while facilitating movement of the analysis range. Moreover, the claimed invention's protrusion, disposed in a recess in the second main surface of the analysis plate and not protruding from the second main surface, enables stable movement of the analysis plate without the protrusion blocking movement of the analysis plate.

None of the cited references teaches or suggests amended claim 1's "first driver for changing the position of said protrusion relative to said sample in a direction parallel to said first main surface by moving said analysis plate in parallel to said first main surface." Moreover, none of Low, Jain, and Chang produce or even suggest the aforementioned advantageous effects of the claimed structure. Therefore, any combination of the references, however made, would be missing this claimed feature, and it would not have been obvious to add this feature to any Low/Jain/Chang combination.

Consequently, amended independent claim 1 is patentable, as are claims 2, 4, 9, and 10, which depend from claim 1.

Accordingly, it is believed that the application is now in condition for allowance. Applicant therefore respectfully requests an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicant's representative at the telephone number shown below.

**Application No.: 10/830,090**

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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